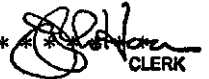


UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

**FILED**  
**OCT 10 2007**

  
CLERK

\*\*\*\*\*

UNITED STATES OF AMERICA,

CR 01-40097

Plaintiff,

-VS-

ORDER

ROBERT ALLEN WALTERS,

Defendant.

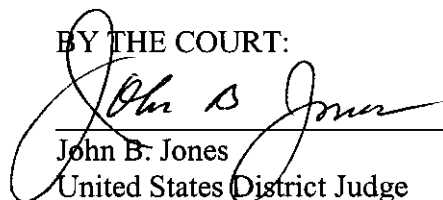
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Defendant Robert Allen Walters filed two motions, Motion for Certificate of Probable Cause for Appeal, Doc. 71, and Motion for Retaining Record by Court Order for Appeal, Doc. 72. The Eighth Circuit Court of Appeals affirmed Defendant's criminal conviction in this case in an opinion dated June 27, 2003. The mandate issued on July 21, 2003. Defendant did not file a motion to vacate, set aside, or correct sentence under 28 U.S.C. § 2255 and has not otherwise challenged his conviction since the mandate was issued by the Eighth Circuit. There is no basis for issuing a certificate of probable cause or of appealability in this action, and that motion will, therefore, be denied. The time for appeal or for filing a motion under 28 U.S.C. § 2255 has been expired for over four years and there is, accordingly, no basis on which to grant Defendant's motion for disclosure of evidence to allow him to appeal the denial of his right to due process.

IT IS ORDERED that Defendant's Motion for Certificate of Probable Cause for Appeal, Doc. 71, and Motion for Retaining Record by Court Order for Appeal, Doc. 72, are denied.

Dated this 10<sup>th</sup> day of October, 2007.

BY THE COURT:

  
John B. Jones  
United States District Judge

ATTEST:

JOSEPH HAAS, CLERK

BY:   
(SEAL) DEPUTY